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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,636	09/29/2003	Gary Vacon	160-007	1124
34845	7590	01/10/2006	EXAMINER	
STEUBING MCGUINNESS & MANARAS LLP 125 NAGOG PARK ACTON, MA 01720			NGUYEN, KHAI MINH	
			ART UNIT	PAPER NUMBER
			2687	

DATE MAILED: 01/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/673,636

Applicant(s)

VACON ET AL

Examiner

Khai M. Nguyen

Art Unit

2687

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2, 7, 9, 14, 16 and 21 is/are pending in the application.
- 4a) Of the above claim(s) 1, 3-6, 8, 10-13, 15 and 17-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) 7, 14 and 21 is/are allowed.
- 6) ☐ Claim(s) 2, 9 and 16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date: 11405, 10/18/05

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. This Office Action is response to Amendment filed on 10/25/2005.  
Claims 2, 7, 9, 14, 16, and 21 are pending.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 2, 7, 9, 14, 16, and 21 have been considered but are moot in view of the new ground(s) of rejection.

### ***Allowable Subject Matter***

3. The indicated allowability of claims 2, 9, 16 are withdrawn in view of the newly discovered reference(s) to teaches an external indication is an LED, and where the LED blinks at rate that is related to the proximity of the access point to said another access point. Rejections based on the newly cited reference(s) follow.

### ***Information Disclosure Statement***

4. The references listed in the Information Disclosure Statement filed on October 18, 2005 and November 22, 2005 have been considered by the examiner (see attached PTO-1449 form or PTO/SB/08A and 08B forms).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 9, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson et al. (U.S. Ub-20040214572) in view of Miller et al. (U.S. Pub-20010010460).

Regarding claim 2, Thompson teaches an access point operable to provide wireless network access to client devices coupled to a wireless network (fig,4, paragraph 0030, 0032, *each of the access points is operable to "listen for" or detect*), the access point comprising:

an external indication of the access point's proximity to another access point (abstract), said another access point also for providing to client devices access to the wireless network (abstract, paragraph 0031-0032, 0040-0041).

Thompson fails to specifically disclose the external indication is an LED, and where the LED blinks at rate that is related to the proximity of the access point to said another access point. However, Miller teaches the blinks at varying rate to indicate whether the instrument is getting closer or getting further away from a signal source, and Miller further teaches the external indication is an LED, and where the LED blinks at rate that is related to the proximity of the access point to said another access point (paragraph 0012, 0045). Therefore, it has been obvious to one of ordinary skill in the

art at the time the invention was made to use the external indication is an LED, and where the LED blinks at rate that is related to the proximity of the access point to said another access point as taught by Miller with Thompson teaching in order to provides an alert to the presence of an signal source.

Regarding claim 9, Thompson teaches a method comprising the steps of:

providing an access point operable to provide wireless network access to client devices coupled to a wireless network (abstract, paragraph 0031-0032, 0040-0041);

providing on the access point an external indication of the access point's proximity to another access point (abstract, paragraph 0031-0032, 0040-0041), said another access point also for providing to client devices access to the wireless network (abstract, paragraph 0031-0032, 0040-0041).

Thompson fails to specifically disclose the external indication is an LED and where the step of providing on the access point an external indication of the access point's proximity to another access point includes the step of: causing the LED to blink at a rate that is related to the proximity of the access point to said another access point. However, Miller teaches the blinks at varying rate to indicate whether the instrument is getting closer or getting further away form an signal source, and Miller further teaches the external indication is an LED (paragraph 0045) and where the step of providing on the access point an external indication of the access point's proximity to another access point includes the step of: causing the LED to blink at a rate that is related to the proximity of the access point to said another access point (paragraph 0012, 0045).

Therefore, it have been obvious to one of ordinary skill in the art at the time the invention was made to use the external indication is an LED and where the step of providing on the access point an external indication of the access point's proximity to another access point includes the step of: causing the LED to blink at a rate that is related to the proximity of the access point to said another access point as taught by Miller with Thompson teaching in order to provides an alert to the presence of an signal source.

Regarding claim 16, Thompson teaches a program product comprising a computer readable medium having embodied therein a computer program for storing data (paragraph 0034, 0040), the computer program comprising:

logic for causing an external indication of an access point's proximity to another access point, said access point and said another access point for providing to client devices access to a wireless network (abstract, paragraph 0031-0032, 0040-0041).

Thompson fails to specifically disclose the external indication is an LED, and where the LED blinks at rate that is related to the proximity of the access point to said another access point. However, Miller teaches the blinks at varying rate to indicate whether the instrument is getting closer or getting further away form an signal source, and Miller further teaches the external indication is an LED, and where the LED blinks at rate that is related to the proximity of the access point to said another access point (paragraph 0012, 0045). Therefore, it have been obvious to one of ordinary skill in the art at the time the invention was made to use the external indication is an LED, and

where the LED blinks at rate that is related to the proximity of the access point to said another access point as taught by Miller with Thompson teaching in order to provides an alert to the presence of an signal source.

***Allowable Subject Matter***

6. Claims 7, 14, and 21 are allowed.

The following is a statement or reason for the indication of allowance: As the applicant stated in the remark (pages 8-9) of the amendment filed on 10/25/2005.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, avoid processing delays, should preferably accompany the issue fee. Such submission should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Citation of Pertinent Prior Art***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

**Shpak** (U.S.Pub-20030207699) discloses Enhancing wireless LAN capacity using transmission power control.

**Busch et al.** (U.S.Pub-20020176437) discloses Wireless LAN with channel swapping between DFS access points.

**Jaszewski et al.** (U.S.Pat-6208629) discloses Method and apparatus for assigning spectrum of a local area network.

***Conclusion***


8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khai M. Nguyen whose telephone number is 571.272.7923. The examiner can normally be reached on 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on 571.272.7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Khai Nguyen  
Au: 2687

12/19/2005

  
**LESTER G. KINCAID**  
**SUPERVISORY PRIMARY EXAMINER**